
HOUSE BILL No. 1170

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-19-3; IC 36-7-13.

Synopsis: Community revitalization enhancement districts tax credits. Provides that a taxpayer that is otherwise entitled to a community revitalization enhancement district (CRED) tax credit may claim the credit regardless of whether any incremental income taxes or sales taxes have been deposited in the incremental tax financing fund established for the CRED or have been allocated to the CRED. Provides that a CRED must terminate not later than 15 years after incremental income or sales taxes are first allocated to the CRED. Provides that if the budget agency fails to act on an ordinance or a resolution designating a CRED within 120 days, the ordinance or resolution is considered approved. Permits an advisory commission on industrial development or the executive of a municipality or county to petition the budget agency for permission to modify the boundaries of a CRED.

Effective: July 1, 2004.

Moses, GinQuinta

January 13, 2004, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1170

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-19-3, AS AMENDED BY P.L.224-2003,
2 SECTION 196, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Subject to section 5 of this
4 chapter, a taxpayer is entitled to a credit against the taxpayer's state and
5 local tax liability for a taxable year if the taxpayer makes a qualified
6 investment in that year.
7 (b) The amount of the credit to which a taxpayer is entitled is the
8 qualified investment made by the taxpayer during the taxable year
9 multiplied by twenty-five percent (25%).
10 (c) A taxpayer may assign any part of the credit to which the
11 taxpayer is entitled under this chapter to a lessee of property
12 redeveloped or rehabilitated under section 2 of this chapter. A credit
13 that is assigned under this subsection remains subject to this chapter.
14 (d) An assignment under subsection (c) must be in writing and both
15 the taxpayer and the lessee must report the assignment on their state tax
16 return for the year in which the assignment is made, in the manner
17 prescribed by the department. The taxpayer may not receive value in

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connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the community revitalization enhancement district.

SECTION 2. IC 36-7-13-2.4, AS AMENDED BY P.L.178-2002, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.4. Except as provided in section 10.7(c) of this chapter, as used in this chapter, "gross retail base period amount" means:

(1) the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or

(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; or

(2) an amount equal to:

(A) the aggregate amount of state gross retail and use taxes remitted:

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(i) under IC 6-2.5 by the businesses operating in the territory comprising a district; and

(ii) during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; **or**

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory added to the district; and

(ii) during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 3. IC 36-7-13-3.2, AS AMENDED BY P.L.178-2002, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. Except as provided in section 10.7(d) of this chapter, as used in this chapter, "income tax base period amount" means:

(1) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or

(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

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(B) twelve (12);
in the case of a district that is described in section 12(c) of this chapter; or

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory added to the district with respect to wages and salary earned for work in the modified district during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 4. IC 36-7-13-10.5, AS AMENDED BY P.L.178-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.

(2) The median income of the county has:

(A) declined over the preceding ten (10) years; or

(B) has grown at a lower rate than the average annual statewide growth in median income during at least three (3) of the preceding five (5) years.

(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and

(B) are vacant or will become vacant due to the relocation of

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1 the employer or the cessation of operations on the site by the
2 employer.

3 (2) Significantly fewer persons are employed in the area to be
4 designated as a district than were employed in the area during the
5 year that is ten (10) years previous to the current year.

6 (3) There are significant obstacles to redevelopment in the area
7 due to any of the following problems:

8 (A) Obsolete or inefficient buildings.

9 (B) Aging infrastructure or inefficient utility services.

10 (C) Utility relocation requirements.

11 (D) Transportation or access problems.

12 (E) Topographical obstacles to redevelopment.

13 (F) Environmental contamination or remediation.

14 (c) A legislative body adopting an ordinance under subsection (b)
15 shall designate the duration of the district. However, ~~the duration may~~
16 ~~not exceed a district must terminate not later than~~ fifteen (15) years
17 ~~from the time of designation. after the income tax incremental~~
18 ~~amount or gross retail incremental amount is first allocated to the~~
19 ~~district.~~

20 (d) Except as provided in section 10.7 of this chapter, upon adoption
21 of an ordinance designating a district, the legislative body shall submit
22 the ordinance to the budget committee for review and recommendation
23 to the budget agency. **If the budget agency fails to take action on an**
24 **ordinance designating a district within one hundred twenty (120)**
25 **days after the date the ordinance is submitted to the budget**
26 **committee, the designation of the district by the ordinance is**
27 **considered approved.**

28 (e) Except as provided in section 10.7 of this chapter, when
29 considering the designation of a district by an ordinance adopted under
30 this section, the budget committee and the budget agency must make
31 the following findings before approving the designation of the district:

32 (1) The area to be designated as a district meets the conditions
33 necessary for the designation as a district.

34 (2) The designation of the district will benefit the people of
35 Indiana by protecting or increasing state and local tax bases and
36 tax revenues for at least the duration of the district.

37 (f) Except as provided in section 10.7 of this chapter, the income tax
38 incremental amount and the gross retail incremental amount may not
39 be allocated to the district until ~~the budget agency approves~~ the
40 designation of the district by the local ordinance **is approved under**
41 **this section.**

42 SECTION 5. IC 36-7-13-12, AS AMENDED BY P.L.224-2003,

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SECTION 238, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million (1,000,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant due to the relocation of an employer.
- (2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution

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designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:

(1) The area meets either of the following conditions:

(A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(B) The area contains a building with at least four hundred forty thousand (440,000) square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(2) The area is located in or is adjacent to an industrial park.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant.

(2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

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(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least eight hundred thousand (800,000) gross square feet; and

(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.

(B) Transportation or access problems.

(C) Environmental contamination.

(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.

(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).

(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than**

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1 fifteen (15) years ~~(at the time of designation)~~: **after the income tax**
 2 **incremental amount or gross retail incremental amount is first**
 3 **allocated to the district.**

4 (g) Upon adoption of a resolution designating a district, the advisory
 5 commission shall submit the resolution to the budget committee for
 6 review and recommendation to the budget agency. **If the budget**
 7 **agency fails to take action on a resolution designating a district**
 8 **within one hundred twenty (120) days after the date the resolution**
 9 **is submitted to the budget committee, the designation of the district**
 10 **by the resolution is considered approved.**

11 (h) When considering a resolution, the budget committee and the
 12 budget agency must make the following findings:

13 (1) The area to be designated as a district meets the conditions
 14 necessary for designation as a district.

15 (2) The designation of the district will benefit the people of
 16 Indiana by protecting or increasing state and local tax bases and
 17 tax revenues for at least the duration of the district.

18 (i) The income tax incremental amount and the gross retail
 19 incremental amount may not be allocated to the district until ~~the budget~~
 20 **agency approves the resolution is approved under this section.**

21 SECTION 6. IC 36-7-13-12.1, AS ADDED BY P.L.224-2003,
 22 SECTION 239, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) If the executive of a city
 24 described in section 10.1(a) of this chapter has submitted an
 25 application to an advisory commission on industrial development
 26 requesting that an area be designated as a district under this chapter
 27 and the advisory commission has compiled and prepared the
 28 information required under section 11 of this chapter concerning the
 29 area, the advisory commission may adopt a resolution designating the
 30 area as a district if it finds the following:

31 (1) That the redevelopment of the area in the district will:

32 (A) promote significant opportunities for the gainful
 33 employment of its citizens;

34 (B) attract a major new business enterprise to the area; or

35 (C) retain or expand a significant business enterprise within
 36 the area.

37 (2) That there are significant obstacles to redevelopment of the
 38 area due to any of the following problems:

39 (A) Obsolete or inefficient buildings.

40 (B) Aging infrastructure or ineffective utility services.

41 (C) Utility relocation requirements.

42 (D) Transportation or access problems.

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(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

(1) the acquisition of land;

(2) interests in land;

(3) site improvements;

(4) infrastructure improvements;

(5) buildings;

(6) structures;

(7) rehabilitation, renovation, and enlargement of buildings and structures;

(8) machinery;

(9) equipment;

(10) furnishings;

(11) facilities;

(12) administration expenses associated with such a project;

(13) operating expenses; or

(14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than fifteen (15) years (at the time of designation): after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.**

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date the resolution is submitted to the budget committee, the designation of the district**

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1 **by the resolution is considered approved.**

2 (f) When considering a resolution, the budget committee and the
3 budget agency must make the following findings:

4 (1) The area to be designated as a district meets the conditions
5 necessary for designation as a district.

6 (2) The designation of the district will benefit the people of
7 Indiana by protecting or increasing state and local tax bases and
8 tax revenues for at least the duration of the district.

9 (g) The income tax incremental amount and the gross retail
10 incremental amount may not be allocated to the district until the budget
11 agency approves the resolution is approved under this section.

12 SECTION 7. IC 36-7-13-12.5 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) An advisory commission**
15 **on industrial development that designates a district under section**
16 **12 or 12.1 of this chapter or the legislative body of a county or**
17 **municipality that adopts an ordinance designating a district under**
18 **section 10.5 of this chapter may petition for permission to modify**
19 **the boundaries of the district. The petition must be submitted to**
20 **the budget committee for review and recommendation to the**
21 **budget agency.**

22 (b) When considering a petition submitted under subsection (a),
23 the budget committee and the budget agency must make the
24 following findings:

25 (1) The district, considering the area to be added to the
26 district, meets the conditions necessary for designation as a
27 district under section 10.5, 12, or 12.1 of this chapter.

28 (2) The proposed modification of the district will benefit the
29 people of Indiana by protecting or increasing state and local
30 tax bases and tax revenues for at least the duration of the
31 district.

32 **If the budget agency fails to take action on a petition submitted**
33 **under subsection (a) within one hundred twenty (120) days after**
34 **the date the petition is submitted to the budget committee, the**
35 **request to modify the boundaries of the district is considered**
36 **approved.**

37 (c) Upon approval of a petition submitted under subsection (a),
38 the budget agency shall certify the district's modified boundaries
39 to the department of state revenue.

40 SECTION 8. IC 36-7-13-13, AS AMENDED BY P.L.224-2003,
41 SECTION 240, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2004]: **Sec. 13. (a) If an advisory commission**

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on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

(1) Employers in the district.

(2) Street names and the range of street numbers of each street in the district.

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:

(1) before July 1 of each year; or

(2) within fifteen (15) days after the date the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.

~~(b)~~ (c) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 9. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 10. [EFFECTIVE JULY 1, 2004] (a) An advisory commission or a legislative body that designated a community revitalization enhancement district before July 1, 2004, may adopt

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1 a resolution before July 1, 2005, to amend the duration of the
2 district under IC 36-7-13-10.5, IC 36-7-13-12, or IC 36-7-13-12.1,
3 all as amended by this act, if no income tax incremental amounts
4 or gross retail incremental amounts have been:

5 (1) deposited in the incremental tax financing fund established
6 for the community revitalization enhancement district; or

7 (2) allocated to the community revitalization enhancement
8 district.

9 (b) If an advisory commission or a legislative body adopts a
10 resolution under this SECTION to amend the duration of the
11 district, the advisory committee or legislative body shall
12 immediately send a certified copy of the resolution to the budget
13 agency and the department of state revenue by certified mail.

14 (c) This SECTION expires January 1, 2006.

15 SECTION 11. [EFFECTIVE JULY 1, 2004] IC 6-3.1-19-3, as
16 amended by this act, applies only to taxable years beginning after
17 December 31, 2004.

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